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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,414	10/23/2003	William Kress Bodin	AUS920030248US1	8489
34533 7590 03/14/2008 INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469				
EXAMINER TAYLOR, NICHOLAS R				
ART UNIT 2141		PAPER NUMBER		
MAIL DATE 03/14/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/692,414

Applicant(s)

BODIN ET AL.

Examiner

NICHOLAS TAYLOR

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on January 3rd, 2008, has been entered.

2. Claims 1-18 have been presented for examination and are rejected.

Response to Arguments

3. Applicant's arguments filed January 3rd, 2008, with respect to the claims have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 7, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by

Teller, et al. (U.S. PGPub 2002/0019586).

6. As per claims 1, 7, and 13, Teller teaches a method for administering devices in a network, the method comprising:

creating a user metric vector comprising a plurality of disparate user metrics, wherein each user metric represents an indication of a dynamic change in a user's physical condition in response to an external stimulus, wherein the user is a person; creating a user metric space comprising a plurality of metric ranges determining whether the user metric vector is outside the user metric space; (Teller, paragraphs 0044 and 0046-0047; see the metrics and vectors described in Tables 1 & 2; see also paragraphs 0120-0121 and fig. 21)

if the user metric vector is outside a user metric space, and identifying an action in dependence upon the user metric vector, wherein the action administers a device to alter the user's physical condition in response to the external stimulus; (Teller, paragraphs 0057, 0124-0127)

determining whether the action is allowed; and if the action is allowed, executing the action (Teller, paragraphs 0057, 0124-0127, where it is determined if an action is allowed and if so, the action is executed).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-6, 8-12, and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teller, et al. (U.S. PGPub 2002/0019586) and Miller et al. (U.S. PGPub 2004/0030531).

9. As per claims 2, 8, and 14, Teller teaches the above, yet fails to teach the system further wherein determining whether the action is allowed comprises comparing the identified action with an allowed action list.

Miller teaches a network-based physiological sensor monitoring system (Miller, paragraphs 0017, 0019, 0020, and fig. 1) that determines whether an identified action is allowed based on a received allowed action list and identifies replacement actions if not allowed (Miller, see, e.g., action lists and decision process of paragraphs 0042-0046, 0049, 0055, and 0057).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Teller and Miller to provide the action process of Miller in the system of Teller, because doing so would provide accurate situation

assessment and intelligent plan generation based upon the sensed activities of an actor in a sensor-based system (Miller, paragraph 0006).

10. As per claims 3, 9, and 15, Teller teaches the above, yet fails to teach the system further comprising identifying an allowed replacement action, if the identified action is not allowed.

Miller teaches a network-based physiological sensor monitoring system (Miller, paragraphs 0017, 0019, 0020, and fig. 1) that determines whether an identified action is allowed based on a received allowed action list and identifies replacement actions if not allowed (Miller, see, e.g., action lists and decision process of paragraphs 0042-0046, 0049, 0055, and 0057).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Teller and Miller to provide the action process of Miller in the system of Teller, because doing so would provide accurate situation assessment and intelligent plan generation based upon the sensed activities of an actor in a sensor-based system (Miller, paragraph 0006).

11. As per claims 4, 10, and 16, Teller-Miller teaches the system further wherein identifying an allowed replacement action comprises comparing the identified action with an allowed action list (Miller, see, e.g., action lists and decision process of paragraphs 0042-0046, 0049, 0055, and 0057).

12. As per claims 5, 11, and 17, Teller-Miller teaches the system further comprising executing the allowed replacement action (Miller, see, e.g., action lists and decision process of paragraphs 0042-0046, 0049, 0055, and 0057).

13. As per claims 6, 12, and 18, Teller teaches the above, yet fails to teach the system further comprising receiving an allowed action list.

Miller teaches a network-based physiological sensor monitoring system (Miller, paragraphs 0017, 0019, 0020, and fig. 1) that determines whether an identified action is allowed based on a received allowed action list and identifies replacement actions if not allowed (Miller, see, e.g., action lists and decision process of paragraphs 0042-0046, 0049, 0055, and 0057).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Teller and Miller to provide the action process of Miller in the system of Teller, because doing so would provide accurate situation assessment and intelligent plan generation based upon the sensed activities of an actor in a sensor-based system (Miller, paragraph 0006).

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/NT/
Nicholas Taylor
Examiner
Art Unit 2141

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145